

REMARKS

I.

Favorable reconsideration of this application, as presently amended, is respectfully requested.

Claims 11-15 and 17-21 are presently active in this application. Claims 1-10 have been cancelled and Claim 16 stands withdrawn as being directed to a non-elected invention.

Claim 13 has been amended to add a new paragraph (c) that recites --said dough cutting apparatus is mounted at one side of a longitudinal development of the machine – and to add in line 9 after “inclined” --toward the dough cutting apparatus--. Support for these amendments is found in the specification at page 7 paragraph (0027) and in Figs. 3a, 3b, and 4. Claim 8 has been rewritten as claim 19. New claim 19 lines 6-7 and 9 include recitations similar to those added to claim 13.

On page 2 of the specification, typographical errors in paragraph (0013) have been corrected. No new matter has been added.

In response to the restriction requirement set forth on page 2 of the outstanding Office Action, Applicant elects the claims of Group I, i.e., Claims 6-15 drawn to an apparatus. This election is made with traverse. Applicant submits that the examination of Claim 16 assigned to group II would not place any additional burden on the Examiner because a complete examination of the claims in the present application would require searching in both class 425, subclass 308, to which Claims 6-15 have been assigned, and class 426, subclass 503, to which Claim 16 has been assigned. Thus, Applicant respectfully requests that the restriction requirement be withdrawn

The objections to the drawings referred to on page 3 of the outstanding Office Action have been noted. The reference signs not mentioned in the description have been removed from the drawings. New drawings are submitted herewith.

Claims 11-13 are objected to under 37 C.F.R. § 1.75 as being substantial duplicates of Claims 6-8, respectively. In response, Applicant has cancelled Claims 6-10, and he has added claims 17-21, which set forth the substance of original claims 6-10 in means-plus-function format.

## II.

Claims 6-15 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 6-10 have been rewritten as claims 17-21. Applicant submits that the phase “heavier than 0.7 lb.” recited in claims 11, 17, and 19 is not indefinite. That is, one could easily determine whether the dough portions produced by the machine are heavier than 0.7 lb. by weighing one or more of them.

The indefiniteness noted by the Examiner in Claims 8 (new claim 19) and 13 has been corrected by the present amendment.

Accordingly, Applicant respectfully requests that the rejection under 35 U.S.C. § 112, second paragraph, be withdrawn.

## III.

Claims 6, 7, 11, 12, 14, and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gowdy ('008) in view of Pozzobon ('246). This rejection is respectfully traversed.

Claims 6 and 7 have been rewritten in means-plus-function format as Claims 17 and 18. Because Claim 17 is written in the means-plus-function format, it must be interpreted in light of 35 U.S.C. § 112, sixth paragraph. As such, the first means for distributing recited in

Claim 17 must be interpreted as the structure of the known apparatus illustrated in Fig. 1 or the equivalents thereof and the second means for distributing must be interpreted as the structure of the distributor illustrated in Figs. 3a, 3b, and 4 or the equivalents thereof. The distributor of the machine illustrated in Fig. 1 is only capable of distributing dough portions ranging in weight from 0.1 to 0.7 lb. On the other hand, the distributor illustrated in Figs. 3a, 3b, and 4 is capable of distributing dough portions ranging in weight from more than 0.7 to 1.5 lb. and even heavier. (Specification at page 7 paragraph (0026) line 46.) As acknowledged by the Examiner, Gowdy does not teach or suggest a second means for distributing dough that is interchangeable with a first means for distributing dough. The structure illustrated in the Pozzobon patent is far removed from the structure disclosed in the Gowdy patent. The extruder 31 illustrated in Fig. 2 of Pozzobon that is relied upon by the Examiner as a distributor clearly bears no resemblance to the distributor disclosed by Gowdy. Moreover, there is no teaching or suggestion in either of the applied references of a first distributor for producing dough portions between 0.1 and 0.7 lb. and a second distributor for producing dough portions heavier than 0.7 lb. In particular, there is no teaching or suggestion in Pozzobon of exchanging one extruder 31 for another in order to change the weight category of the dough portion produced by the machine. It is only through the use of improper hindsight using Applicant's disclosure as a template that one would attempt to combine the teachings of Pozzobon with the teachings of Gowdy in the manner proposed by the examiner. Therefore, Applicant submits that it would not have been obvious to one having ordinary skill in the art to substitute the extruder 31 disclosed by Pozzobon for the distributor disclosed by Gowdy. Moreover, even if the applied references could be combined as proposed, the combination would not result in the subject matter defined by claims 17. Thus, Claim 17 clearly patentably distinguishes over the applied references.

Claim 18 depends from Claim 17, and therefore it patentably distinguishes over the applied references for the reasons stated above with respect to Claim 17. Moreover, Claim 18 includes additional limitations which further patentably distinguish over the applied references.

Claim 11 is an independent claim, and it recites a first dough distributor and a second dough distributor wherein "said second dough distributor, when interchanged with said first dough distributor, is adapted to cooperate with said dough cutting apparatus and with said extruded dough portion control apparatus to produce dough portions heavier than 0.7 lb." As pointed out above with respect to Claim 17, Applicant submits that it would not have been obvious to one having ordinary skill in the art to attempt to substitute the extruder 31 illustrated in Fig. 2 of the Pozzobon patent or the dough distributor disclosed in the Gowdy patent. It is only through the improper use of hindsight using Applicant's disclosure as a template that one would attempt to combine the applied references in the manner proposed by the Examiner. Accordingly, Applicant submits that Claim 11 clearly patentably distinguishes over the applied references.

Claims 12, 14, and 15 depend directly or indirectly from Claim 11. Those claims patentably distinguish over the applied references for the reasons stated above with respect to Claim 11. Moreover, each of those claims includes additional limitations which further patentably distinguish over the applied references.

#### IV.

Claims 8-10 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gowdy in view of Pozzobon and further in view of Nagy et al. ('131). This rejection is respectfully traversed.

Claims 8-10 have been rewritten in means-plus-function format as Claims 19-21. Claims 19-21 depend directly or indirectly from Claim 17. The Nagy et al. reference fails to make up for the deficiencies in the Gowdy patent and the Pozzobon patent discussed above with respect to Claim 17. That is, there is no teaching or suggestion in the Nagy et al. patent of providing a second distributor that is interchangeable with the first distributor, as recited in Claim 17. Moreover, like the Pozzobon patent, the Nagy et al. patent is unrelated to the apparatus disclosed by Gowdy. Therefore, it is only through improper hindsight using Applicant's disclosure as a guide that one would attempt to combine the references in a manner proposed by the Examiner. Moreover, claim 19 recites "said means for cutting the dough is mounted at one side of a longitudinal development of the machine" and "said second means for distributing the dough is made in the form of a cone having a longitudinal axis which is substantially inclined toward the means for cutting with respect to said longitudinal development of the machine." Support for this recitation is found on page 7 paragraph (0027) and in Figs. 3a, 3b, and 4. This structure has the advantage of permitting the use of a cutting blade having the same length for cutting both the small and the large dough portions. This relationship is nowhere taught or suggested by the applied references. Thus, Applicant submits that Claim 19 clearly patentably distinguish over the applied references.

Claims 20 and 21 depend directly or indirectly from Claim 19. Those claims patentably distinguish over the applied references for the reasons stated above with respect to Claim 19. Moreover, each of those claims includes additional limitations which further patentably distinguish over the applied references.

Claim 13 depends from Claim 11. As recognized by the Examiner, the subject matter defined by claim 13 is not taught or suggested by the Gowdy patent in view of the Pozzobon patent. As pointed out above with respect to Claim 19, it is only through improper hindsight

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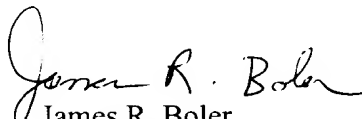
using Applicant's disclosure as a guide that one would attempt to combine the disclosure in the Nagy et al. patent with the other applied references in the manner proposed by the Examiner. Moreover, claim 13 specifically recites "said dough cutting apparatus is mounted at one side of a longitudinal development of the machine" and "said second dough distributor is made in the form of a cone having a longitudinal axis which is substantially inclined toward the dough cutting apparatus with respect to said longitudinal development of the machine ...." As pointed out above with respect to claim 19, this relationship is nowhere taught or suggested by the applied references. Therefore, applicant submits that the subject matter defined by Claim 13 clearly patentably distinguishes over the applied references.

V.

In view of the above remarks, Applicant respectfully requests favorable reconsideration and allowance of Claims 11-15 and 17-21.

Respectfully submitted,

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